

WILLIAM R. TAMAYO, REGIONAL ATTORNEY
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN FRANCISCO DISTRICT OFFICE
350 THE EMBARCADERO, SUITE 500
SAN FRANCISCO, CALIFORNIA 94105-1260

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JOHN F. STANLEY, SUPERVISORY TRIAL ATTORNEY
TERI HEALY, SENIOR TRIAL ATTORNEY
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
909 FIRST AVENUE, SUITE 400
SEATTLE, WA 98104
Teri.Healy@EEOC.gov
Tel: (206) 220-6916
Fax: (206) 220-6911

ATTORNEYS FOR PLAINTIFF

In UNITED STATES DISTRICT COURT
For the DISTRICT OF OREGON

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Plaintiff,

and

ANITA CLARK

Plaintiffs in Intervention

CIVIL ACTION NO. CV 07-1441 HO

~~[PROPOSED]~~ CONSENT DECREE AND
ORDER

EEOC v. FC SALEM and FARMINGTON CENTERS, INC.. CV-07-1441 HO
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EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle Field Office
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone: (206) 220-6885
Facsimile: (206) 220-6911
TDD: (206) 220-6882

v.

FARMINGTON CENTERS SALEM an
Oregon Limited Partnership and
FARMINGTON CENTERS, INC.

Defendants/Third Party Plaintiffs

v.

PAUL VETTERUS

Third Party Defendant

I. INTRODUCTION

1. This action originated with discrimination Charge No. 38D-2006-00579, filed by Anita Clark with the EEOC on or about May 25, 2006. Ms. Clark alleged that Farmington Centers Salem, ("FC Salem") located at 910 Boone Road, Salem, Oregon and Farmington Centers, Inc. ("FCI") located at 4640 SW Macadam Avenue, Suite 90, Portland, Oregon (collectively "Defendants", individually a "Defendant")) discriminated on the basis of sex by subjecting her to sexual harassment and constructive discharge in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e et seq.

2. The EEOC issued a letter of determination on June 14, 2007 with a finding of reasonable cause to believe that Defendants violated Title VII.

3. The EEOC filed this lawsuit on October 30, 2007 in the United States District Court for the District of Oregon, on behalf of Ms. Clark and similarly situated female employees, alleging harassment and constructive discharge based on sex.

4. The EEOC, on its own behalf and on behalf of the identified similarly situated employee, the eight similarly situated female former employees listed on Exhibit A, FC Salem and FCI want to conclude fully and finally all claims arising out of the EEOC's complaint, its Letters of Determination, the charges of discrimination filed with the EEOC, and the allegations raised by EEOC in its second amended complaint filed in this action. The EEOC and Defendants enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in Title VII.

II. NONADMISSION OF LIABILITY AND NONDETERMINATION BY THE COURT

5. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by Defendants of a violation of Title VII.

III. JURISDICTION AND VENUE

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a, and Section 704 of Title VII, 42 USC § 2000e-3. The employment practices alleged to be unlawful in the EEOC's complaint filed herein

are alleged to have occurred within the jurisdiction of the United States District Court for the District of Oregon.

V. SETTLEMENT SCOPE

7. This Consent Decree is the final and complete resolution of all Title VII allegations of unlawful employment practices contained in the EEOC's complaint, including all claims by the parties for attorney fees and costs. The Consent Decree resolves all issues and claims arising out of the EEOC's complaint, and is binding and final as to all such issues and claims.

VI. SETTLEMENT PROCEDURES

8. On January 14, 2009, defendant FC Salem filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court, District of Oregon (Case No. 09-60095-fra11). Upon execution of this consent decree, the parties shall file a motion in the Bankruptcy Court requesting an order approving the resolution of this lawsuit. The Bankruptcy Court's order, if issued, shall not become effective unless this Court grants final approval of the Consent Decree.

VI. MONETARY RELIEF

9. In settlement of this lawsuit, FC Salem agrees to pay Two Hundred Forty Thousand Dollars (\$240,000.00) for the benefit of, and payable to, the charging party (Clark) and the eight similarly situated female former employees named on attached Exhibit A (collectively, "the Claimants" and individually, a "Claimant").), subject to the approval of the Bankruptcy

Court. FC Salem further agrees to seek the approval of the Bankruptcy Court for an "allowed" general unsecured claim of \$240,000 in its pending bankruptcy action. If approved by the Bankruptcy Court, FC Salem's payment of the \$240,000 in monetary relief shall be pursuant to a Plan of Reorganization that the Bankruptcy Court confirms in its pending bankruptcy. Each Claimant's share of such sum shall be paid, without interest, to each Claimant at her address listed on attached Exhibit A in monthly installments of principal in the amounts set forth in Exhibit A or in any amount approved by the Bankruptcy Court. Pursuant to the Bankruptcy Court's approval, the aggregate of such monthly payments is Five Thousand Dollars (\$5,000.00). Such monthly payments shall commence on the tenth day of the month immediately following the Effective Date of FC Salem's confirmed Plan of Reorganization to be paid pursuant to such Plan of Reorganization and continuing on the same of day of each succeeding month until paid in full. Upon receipt from a Claimant of written notice of a change in address, FC Salem shall with written notice to the EEOC send monthly payments for succeeding months to such new address.

10. FC Salem shall make full, immediate payment to EEOC of the remainder of the \$240,000 in monetary relief required by this Decree if (1) there is a sale to a third party of substantially all of the assets of FC Salem or (ii) FC Salem's secured debt is refinanced.

11. In the event that FC Salem fails to make a timely payment required in sections 9 or 10 above, EEOC shall notify FC Salem of its default and provide it a period of twenty (20) calendar days to make such payment(s). EEOC also shall provide a copy to FCI of the same information. If FC Salem fails to make a payment within 20 days after EEOC requests

such payment, EEOC shall notify FCI of FC Salem's default and FCI shall make such payment(s) to EEOC within 10 days after EEOC requests such payment.

12. Prior to the entry of this Consent Decree, each Claimant shall execute a release of their claims asserted in this lawsuit (in form agreed by the parties) and deliver it to the EEOC to hold. Upon FC Salem tendering to such Claimant payment in full of such Claimant's settlement amount, the EEOC shall deliver to FC Salem such Claimant's original signed release.

VI. INJUNCTIVE AND OTHER RELIEF

A. General Provisions

13. FC Salem and FCI, its officers, agents, managers, assistant managers and other supervisors and all human resource professionals who provide advice and assistance to the employees of FC Salem are enjoined from engaging in practices which constitute harassment based on an employee's sex.

14. FC Salem and FCI, its officers, agents, managers, assistant managers and other supervisors and all human resource professionals who provide advice and assistance to the employees of FC Salem are further enjoined from retaliating against any FC Salem applicant or employee for opposing a practice deemed unlawful by Title VII or for making a charge, testifying, assisting, or participating in any investigation, proceeding, or hearing associated with this action. In recognition of obligations under Title VII, FC Salem and FCI shall institute the policies and practices set forth below at the FC Salem Facilities.

B. Retention of Sexual Harassment Consultant to Develop Policy Against Sexual Harassment

15. With the assistance of an independent sexual harassment consultant, FC Salem and FCI will adopt a written equal employment opportunity policy which sets forth the requirements of federal laws against employment discrimination and specifically those provisions which make sexual harassment unlawful and which make it unlawful to retaliate against any current or former FC Salem employee for opposing any practice made unlawful by Title VII. The sexual harassment consultant will be retained, at FC Salem expense (the payment of which FCI will guarantee), to conduct an internal review and audit of FC Salem's sexual harassment policy and complaint procedure. The sexual harassment consultant will be subject to the prior approval of the EEOC and the policy and complaint procedure to be developed will address, at a minimum, the following statement of "Zero-Tolerance Policy": FC Salem and FCI are firmly committed to developing and maintaining a zero-tolerance policy concerning sex discrimination, sexually-based harassment and retaliation against individuals who report discrimination or harassment in FC Salem's workplace; to swiftly and firmly responding to any acts of sex discrimination, sexually-based harassment or retaliation of which the company becomes aware; to implementing a disciplinary system that is designed to strongly deter future acts of sex discrimination, sexually-based harassment or retaliation; to eradicating any vestiges of a work environment that is sexually hostile to individuals; and to actively monitoring FC Salem's workplace in order to ensure tolerance, respect and dignity for all people.

C. Anti-Discrimination Policies and Procedures

16. FC Salem and FCI shall carry out anti-discrimination policies, procedures and training for FC Salem's employees, supervisors and management personnel and shall provide equal employment opportunities for all FC Salem employees consistent with its obligations under the law. FC Salem and FCI shall ensure that the practices of FC Salem's managers and supervisors are consistent with the obligations of this paragraph, and compliance with FC Salem and FCI policies will be considered in the performance evaluations of management personnel.

17. Within sixty (60) days of the date the Court enters this Consent Decree, FC Salem and FCI shall provide to the EEOC: (a) an EEO policy which addresses FC Salem and FCI's obligation to provide a work environment free of harassment, discrimination, and retaliation for FC Salem's employees, and states its commitment not to retaliate against any employee for engaging in protected EEO activity; and (b) confirmation that it distributed its EEO policy to all present FC Salem employees and will distribute it to all future FC Salem employees, both management and non-management, for the duration of this Decree.

D. Training

18. Within sixty (60) days of the date the Court enters this Consent Decree, FC Salem and FCI shall present to all FC Salem employees, managers, assistant managers, and supervisors, no less than four (4) hours of face-to-face training by a qualified trainer on harassment, employment discrimination, and retaliation for engaging in protected EEO activity. The EEOC

shall have an opportunity to view and approve the training materials prior to the training date.

The EEOC shall not unreasonably withhold approval.

Annually thereafter, for the life of this Consent Decree, FC Salem and FCI shall require: all FC Salem employees, managers, assistant managers and supervisors, and a designated corporate headquarters human resource representative, to complete four (4) hours of face-to-face training by a qualified trainer on harassment, employment discrimination and retaliation.

E. Expungement of Records/Reference Requests

19. FC Salem and FCI are enjoined from disclosing any information about, or making reference to, any charge of discrimination that is the subject of this lawsuit in responding to employment reference requests for information about the recipients of settlement funds named by the EEOC. Rather, it shall provide only the employment dates and position title in response to reference requests for those named individuals. FC Salem and FCI agree to expunge from their respective records or files all materials related to the Charging Party's charges of discrimination and this EEOC lawsuit.

F. Policies Designed to Promote Supervisor Accountability

20. FC Salem and FCI shall advise all FC Salem managers and supervisors of their duty to ensure compliance with its EEO policies, and to report any incident or complaint of harassment, discrimination, or retaliation, of which they become aware. FC Salem and FCI shall

also advise all FC Salem managers and supervisors that if a manager or supervisor violates FC Salem's EEO policies, he/she may be subject to discipline up to and including termination and compensation may be affected.

21. FC Salem and FCI agree that it shall include "commitment to equal employment opportunity" or similar designation as a criterion for promotion to, or evaluation of, supervisory positions.

G. Reporting

22. FC Salem and FCI shall report in declaration form to the EEOC beginning six (6) months from the date of the entry of this Decree, and thereafter every six months for the duration of the decree the following information:

- a. Certification of the completion of training and list of attendees set forth in Paragraph 18 above, and a list of all attendees including job titles.
- b. Certification that FC Salem's EEO policy has been sent to all FC Salem current and newly hired employees as described in Paragraph 17 above.
- c. A copy of FC Salem's EEO policy and a list of any changes, modifications, revocations or revisions to its EEO policies and procedures which concern or affect the subject of discrimination and retaliation; and
- d. A summary of all harassment, discrimination and retaliation complaints, if any, filed by FC Salem employees, identified by name, and the resolution, if any, of each complaint.

H. Posting

23. FC Salem and FCI shall post a Notice, attached as Exhibit B to this Consent Decree. FC Salem and FCI shall post a Spanish translation of the Notice, to be provided by the EEOC. The Notice shall be posted at the FC Salem facility in the state of Oregon and placed on a centrally located bulletin board or other place where such notices are normally posted and read by employees for the duration of the Consent Decree.

VIII. ENFORCEMENT

24. If the EEOC determines that FC Salem and FCI have not complied with the terms of this Decree, the EEOC shall provide written notification of the alleged breach to FC Salem and FCI. The EEOC shall not petition the Court for enforcement of the Decree for at least twenty (20) days after providing written notification of the alleged breach. The 20-day period following the written notice shall be used by the parties for good faith efforts to resolve the dispute, or for FC Salem and FCI to cure the breach. In those cases where it would take longer than twenty (20) days to cure the breach, FC Salem and FCI may have such additional time as may be necessary by agreement with the EEOC so long as FC Salem and FCI take all reasonable efforts to cure the breach within the twenty (20) day period.

IX. RETENTION OF JURISDICTION

25. The United States District Court for the District of Oregon shall retain jurisdiction over this matter for the duration of the Decree.

X. DURATION AND TERMINATION

26. This Decree shall be in effect for the earlier of (i) four (4) years from the date of entry of this decree if full payment of settlement monies occurs sooner than five years or (ii) five (5) years from the date the Court enters this Decree if full payment of settlement monies does not occur sooner than five years. If the EEOC petitions the Court for breach of the Decree, and the Court finds Farmington to be in violation of the terms of the Decree, the Court may extend the duration of the Decree.

XI. CONDITIONS OF VALIDITY

27. The parties are not bound by any provision of this decree until it is signed by authorized representatives of each party, approved by the bankruptcy court with jurisdiction over FC Salem and is entered by the Court.

Dated this 5th day of June, 2009.

BY:

/s/ John F. Stanley

WILLIAM R. TAMAYO
Regional Attorney
San Francisco District

JAMES L. LEE
Deputy General Counsel

JOHN F. STANLEY
Supervisory Trial Attorney

GWENDOLYN YOUNG REAMS
Associate General Counsel

TERI HEALY
Senior Trial Attorney
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle Field Office
909 First Avenue, Suite 400
Seattle, Washington 98104
Telephone (206) 220-6916
Teri.Healy@EEOC.gov

Office of the General Counsel
131 "M" Street NE
Washington, D.C. 20507

Attorneys for Plaintiff

BY:

/s/ James Oberholtzer
James Oberholtzer
Rohlfing & Oberholtzer
Attorneys at Law
Oregon Office
1001 SW 5th Ave., Ste. 1300
Portland, Oregon 97204
oberholtz@oberholtz.com
(503) 224-8050
Fax (503) 595 2818
Cell: (503) 412-8647

Chicago Office
211 West Wacker Dr., Suite 1200
Chicago, IL 60606
(312) 923-7103
Fax: (312) 923-9023

Attorney for Defendants

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TDD: (206) 220-6882

Name		Address	City	State	Zip Code	Monthly Distribution for 48 months	Total Distribution
Anita	Clark	465 North East 36th Street Apartment 8	New Port	Oregon	97365	\$1,562.50	\$75,000
Regina	Cade	1850 North Tyler Ave.	Springfield	Missouri	65802	\$312.50	\$15,000
Sarietha	Follett	222 Clover Street	Aumsville	Oregon	97325	\$520.83	\$25,000
					97303-	\$520.83	\$25,000
Heidi	Golden	4572 Clark Avenue N.E.	Keizer	Oregon	4610		
Shelia	McLaughlin	4998 Skyline Road S.E.	Salem	Oregon	97306	\$312.50	\$25,000
Dawn	Palledeno	871 Plymouth Drive	Keizer	Oregon	97303	\$312.50	\$15,000
					97302-	\$625.00	\$30,000
Tanya	Rider	2599 12th Street Apt. #23	Salem	Oregon	2198		
Colleen	Stevens	11190 Meridian Street	Independence	Oregon	97351	\$312.50	\$15,000
Bianca	Torres	1236 Chrissy Court	Salem	Oregon	97306	\$312.50	\$15,000

EXHIBIT A



NOTICE TO EMPLOYEES

This notice has been posted pursuant to the settlement of a lawsuit: EEOC v. Farmington Centers Salem and Farmington Centers, Inc.. In accordance with the Consent Decree, Farmington Centers Salem, an Oregon limited partnership ("FC Salem") and FCI will provide anti-discrimination training to all employees in at FC Salem's facility located in Salem, Oregon; provide FC Salem's EEO policy to all employees at FC Salem facilities; implement policies to ensure supervisor and manager accountability with regard to anti-discrimination practices; and report to the EEOC all complaints of sexual harassment or retaliation it receives from its employees for the next four years.

Federal law prohibits an employer from discriminating against any individual based on the individual's sex with respect to hiring, promotion, demotion, terms and conditions of employment and/or termination. Federal law also prohibits an employer from allowing any employee to be harassed because of sex. This includes harassment by any patrons of an employer. It is also unlawful for an employer to retaliate against any individual because he or she complains of discrimination or harassment, cooperates with the investigation of a discrimination or harassment charge by FC Salem or a government agency, participates as a witness or potential witness in any investigation or legal proceeding or otherwise exercises his or her rights under the law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to substantial discipline, up to and including immediate discharge.

Should you have any complaints of discrimination, including sexual harassment, you should contact _____ at _____.

Employees also have the right to bring complaints of discrimination or harassment to the U.S. Equal Employment Opportunity Commission, Seattle District Office at 909 1st Avenue, Suite 400, Seattle, WA 98104-1061, 206.220.6883, 1800.669.4000, or Oregon Bureau of Labor and Industries 800 NE Oregon St., Suite 1045, Portland, Or 97232, 971-673-0762.

This notice shall remain prominently posted at FC Salem facilities until December 2012. This Official Notice shall not be altered, defaced, covered or obstructed by any other material.

WILLIAM R. TAMAYO, REGIONAL ATTORNEY
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN FRANCISCO DISTRICT OFFICE
350 THE EMBARCADERO, SUITE 500
SAN FRANCISCO, CALIFORNIA 94105-1260

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TERI HEALY, SENIOR TRIAL ATTORNEY
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Defendants/Third Party Plaintiffs


v.

PAUL VETTERUS,

Third Party Defendant.

The Court, having considered the foregoing stipulated agreement of the parties, HEREBY ORDERS THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to The Defendant Farmington Centers Salem An Oregon Limited Partnership And Farmington Centers, Inc. or to the plaintiff, Equal Employment Opportunity Commission. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 9th day of June, 2009.


MICHAEL R. HOGAN
UNITED STATES DISTRICT JUDGE

Presented by:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

s/ John F. Stanley
John F. Stanley
Supervisory Trial Attorney

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